



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF JUNE 10, 2004**

CALL TO ORDER: Vice Chairperson Wieckowski called the meeting to order at 7:00 p.m.

PRESENT: Vice Chairperson Wieckowski, Commissioners Harrison, King, Lydon, Natarajan, Sharma

ABSENT: Chairperson Weaver

STAFF PRESENT: William Meeker, Planning Director  
Jeff Schwob, Deputy Planning Director  
Larissa Seto, Senior Deputy City Attorney II  
Kathleen Livermore, Senior Planner  
Barbara Meerjans, Associate Planner  
Jake Lavin, Redevelopment Project Manager  
Alice Malotte, Recording Clerk  
Chavez Company, Remote Stenocaptioning  
Miriam Schalit, Video Technician

**Vice-Chairperson Wieckowski** asked that members of the public who wished to speak on the Housing Element to note the particular program and site number on the speaker card, as each site would be heard separately. He stated that Item Number 8, Program 18, Site 6 and Site 3, St. James Church portion, along with Item Number 9, Program 21, Site 1 and Site 2 would not be heard at this hearing. Letters received by Chairperson Weaver and the other Commissioners be included in the public record.

APPROVAL OF MINUTES: None

**CONSENT CALENDAR**

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 2, 3, 4, 5, 6, 11, 12, AND 13.

Item Number 2 was taken separately, as **Vice-Chairperson Wieckowski** recused himself, because his friend's sons attended Prince of Peace Preschool and his office was located next door to the church.

IT WAS MOVED (HARRISON/LYDON) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 1, 3, 4, 5, 6, 11, 12, AND 13.

**Item 1. PACIFIC COMMONS MAJOR RETAIL DEVELOPMENT – (MIS2004-00399)** – to consider a Planned Sign Program for the Major Retail District within the area referred to as Pacific Commons. This project is categorically exempt from review under CEQA pursuant to Section 15311(a) (Accessory Structures).

**CONTINUE TO JUNE 24, 2004.**

- Item 3. MARSHALL PARK – 5301 Curtis Street – (PLN2004-00211)** – city-initiated General Plan Amendment rezoning for the site acquired as a City park from Low-Density Residential 5-7DU/AC to Institutional Open Space and a corresponding rezoning from R-1-6 (Single Family Residential) to O-S (Open Space). This project will not have the potential for causing a significant effect on the environment and therefore is not subject to CEQA under Section 15061(b)(3).

**HOLD PUBLIC HEARING;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THAT THE PRIOR NEGATIVE DECLARATION PREPARED AND ADOPTED FOR THE ACQUISITION OF PARCEL AND CONDITIONAL USE PERMIT (PLN2003-00160) ADEQUATELY ADDRESSED ALL ENVIRONMENTAL ISSUES AND NO ADDITIONAL ENVIRONMENTAL REVIEW IS NEEDED AT THIS TIME;**

**AND**

**RECOMMEND TO COUNCIL APPROVAL OF PLN2004-00211 TO AMEND THE GENERAL PLAN LAND USE DESIGNATION FOR THE PROJECT IN CONFORMANCE WITH EXHIBIT "A" (GENERAL PLAN AMENDMENT EXHIBIT);**

**AND**

**RECOMMEND TO COUNCIL APPROVAL OF PLN2004-00211 TO CHANGE THE ZONING CLASSIFICATION IN CONFORMANCE WITH EXHIBIT "B" (REZONING EXHIBIT).**

A member of the public asked if an item were removed from the Consent Calendar, would it be heard.

**Vice-Chairperson Wieckowski** explained that a removed item would be placed on the Public Hearing Calendar and staff and the public would discuss it. If it stayed on the Consent Calendar, the recommendation would be approved, along with all of the other consent items.

- Item 4. ALAMEDA RESIDENCE – Clara Terrace – (PLN2004-00214)** – to consider a Planned District minor amendment and a Preliminary Grading Plan for an 8,064 square foot residence, including a detached garage, located in the Mission San Jose Planning Area. A Mitigated Negative Declaration has been previously prepared and adopted for the Planned District subdivision, which includes the anticipated development of this lot.

**CONTINUE TO JUNE 24, 2004.**

- Item 5. CARL'S JR PLAY STRUCTURE - 37000 Fremont Boulevard – (PLN2004-00222)** – to consider an amendment to a Conditional Use Permit (U-83-14) for the replacement of an existing play structure at a restaurant located in the Centerville Planning Area. This project is categorically exempt from review under CEQA pursuant to Section 15302 (b) (Replacement of a commercial structure with a structure of substantially the same size, purpose and capacity).

**HOLD PUBLIC HEARING;**

**AND**

**FIND THAT NO CEQA ANALYSIS IS NEEDED BECAUSE THE PROJECT IS EXEMPT PURSUANT TO SECTION 15302 (B) (REPLACEMENT OF A COMMERCIAL STRUCTURE WITH A STRUCTURE OF SUBSTANTIALLY THE SAME SIZE, PURPOSE AND CAPACITY);**

**AND**

**FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THE PROJECT CONFORMS TO THE GOALS AND POLICIES AS ENUMERATED IN THE STAFF REPORT AND FINDINGS EXHIBIT ADOPTED/RECOMMENDED HERewith;**

**AND**  
**APPROVE PLN2004-00222, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B".**

**Item 6.     LINCOLN ST. APTS – 40852 Lincoln Street – (PLN2004-00243)** – to consider a Finding for Site Plan and Architectural Approval and a Density Bonus, as permitted under State law, for the development of an eleven-unit multifamily residential housing project located in the Irvington Planning Area. A Mitigated Negative Declaration has been previously prepared for this project.

**Commissioner Natarajan** asked (and it was agreed by all present) that two conditions be added, as follows:

- The City would obtain a letter from the architect of the project that stated the building conformed with the submitted design.
- The City would obtain a similar letter from the engineer of record.

**HOLD PUBLIC HEARING;**

**AND**

**FIND THE PREVIOUS INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES. THEREFORE, FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;**

**AND**

**FIND THAT THE PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION AND MITIGATED MONITORING PROGRAM FOR THE PROJECT ARE STILL VALID AND THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FINDING THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;**

**AND**

**FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT CONFORMS TO THE GOALS AND POLICIES AS ENUMERATED IN THE STAFF REPORT AND FINDINGS EXHIBIT ADOPTED/RECOMMENDED HERewith;**

**AND**

**FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE STANDARD AND POLICES OF THE R-3 ZONING DISTRICT, AND THAT BASED ON THE SITE PLAN AND ARCHITECTURAL APPROVAL PROCESS CONDUCTED, THE EXCEPTIONS GRANTED TO THE GENERAL STANDARDS OF THE DISTRICT ARE WARRANTED FOR THE REASONS MENTIONED IN THE STAFF REPORT HEREIN;**

**AND**

**FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE DENSITY BONUS ORDINANCE AND THAT THE DENSITY BONUS OF 25 PERCENT OVER THE MAXIMUM DENSITY PERMITTED FOR THE SUBJECT SITE AND THE ADDITIONAL CONCESSIONS REQUESTED AS OUTLINED ARE WARRANTED FOR THE REASONS MENTIONED IN THE STAFF REPORT HEREIN;**

**AND**

**APPROVE PLN2004-00243, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B".**

- Item 11. **INCLUSIONARY HOUSING ORDINANCE UPDATE – Citywide - (PLN2004-00284)** – to consider a Zoning Text Amendment modifying provisions of Article 21.7 (Inclusionary Housing) with regard to phasing, alternatives to on-site construction, and subsequent rental of owner-occupied units for affordable units within residential projects, and to correct code references. The City Council adopted a Negative Declaration for the Inclusionary Housing Ordinance (PLN2003-00088) on November 12, 2002.

**HOLD PUBLIC HEARING;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THAT THE INITIAL STUDY CONDUCTED FOR PLN 2003-00088 EVALUATED THE POTENTIAL OF THE INCLUSIONARY HOUSING ORDINANCE TO CAUSE EFFECTS THAT, INDIVIDUALLY OR CUMULATIVELY, ARE ADVERSE TO WILDLIFE RESOURCES; THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE THE POTENTIAL FOR AN ADVERSE EFFECT ON WILDLIFE. FURTHER RECOMMEND THAT THE CITY COUNCIL FIND THAT THE PROPOSED ORDINANCE MODIFICATIONS (PLN 2004-00284) WILL NOT CAUSE ANY NEW OR DIFFERENT IMPACTS, THAT THE NEGATIVE DECLARATION FOR THE ORIGINAL ADOPTION OF THE INCLUSIONARY HOUSING ORDINANCE ON NOVEMBER 12, 2002 THEREFORE PROPERLY ADDRESSES THE PROPOSED MODIFICATIONS SET FORTH IN THE INCLUSIONARY HOUSING UPDATE, AND THAT THEREFORE NO FURTHER ENVIRONMENTAL REVIEW IS NEEDED;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THAT THE PROPOSED INCLUSIONARY HOUSING ORDINANCE UPDATE (PLN2004-00284) IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THE INCLUSIONARY HOUSING ORDINANCE, AS MODIFIED, WILL FURTHER THE IMPLEMENTATION OF POLICY 3A (IMPLEMENTATION PROGRAM 16) OF THE ADOPTED HOUSING ELEMENT;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THAT THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE ADOPTION OF THIS ZONING TEXT AMENDMENT BECAUSE IT IS NEEDED TO ENSURE THAT PROJECTS WITH INCLUSIONARY DWELLING UNITS CAN ACTUALLY BE DEVELOPED IN PHASED PROJECTS, TO ENSURE THAT OFF-SITE INCLUSIONARY UNITS CAN BE ACCOMMODATED IN ADJACENT PROJECTS WHERE THERE IS AN OPPORTUNITY TO DO SO AND WHERE DOING SO WOULD PROVIDE THE GREATEST PUBLIC BENEFIT, AND TO ALLEVIATE HARDSHIPS THAT REQUIRE OWNERS OF AFFORDABLE OWNERSHIP UNITS TO RENT THE UNITS OUT;**

**AND**

**RECOMMEND THE PROPOSED INCLUSIONARY HOUSING ORDINANCE UPDATE (PLN 2004-00284) TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A" (ZONING TEXT AMENDMENT).**

- Item 12. **HEALTH AND SAFETY ELEMENT UPDATE FOR FIRE DEPARTMENT RESPONSE TIME STANDARDS (PLN2004-00296)** – to consider a General Plan Text Amendment to amend Chapter 10 (Health and Safety) of the General Plan to reflect the revised Fire Department response time standards. This General Plan Text Amendment will not have the potential for causing a significant effect on the environment and therefore is not subject to CEQA under Section 15061(b)(3).

Modification to Exhibit "A" (General Plan Amendment Text)

The text of Exhibit "A", attached hereto, has been amended to further clarify language. Newly added language is shown in double underline while newly deleted text is shown in ~~double strikethrough~~.

HOLD PUBLIC HEARING;

AND

RECOMMEND THAT THE CITY COUNCIL FIND THE PROPOSED PROJECT HAS BEEN REVIEWED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND HAS BEEN FOUND TO BE EXEMPT UNDER SECTION 15061(B)(3). THE GENERAL PLAN TEXT AMENDMENT WILL NOT HAVE THE POTENTIAL FOR CAUSING A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THEREFORE IS NOT SUBJECT TO CEQA;

AND

RECOMMEND THAT THE CITY COUNCIL FIND THAT THE PROPOSED GENERAL PLAN TEXT CHANGES ARE IN CONFORMANCE WITH THE CITY'S GENERAL PLAN UNDER HEALTH AND SAFETY (HS) GOAL 5: OBJECTIVE HS 5.1: POLICY 5.1.2: IMPLEMENTATION 1 AS DETAILED IN THE STAFF REPORT;

AND

RECOMMEND THAT THE CITY COUNCIL AMEND THE GENERAL PLAN TEXT OF CHAPTER 10 (HEALTH AND SAFETY) AS SET FORTH IN EXHIBIT A.

- Item 13. **BACCARAT RAILROAD LLC – 41075 Railroad Avenue – (PLN2000-00059)** – to consider an appeal regarding the completeness of an application for a Preliminary Grading Plan and an Initial Study and to consider a Preliminary Grading Plan for a 15-acre site zoned I-L Light Industrial located in the Irvington Planning Area. (Continued from May 27, 2004.)

**CONTINUE TO JULY 8, 2004.**

The motion carried by the following vote:

AYES:	6 – Harrison, King, Lydon, Natarajan, Sharma, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Weaver
RECUSE:	0

IT WAS MOVED (KING/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (5-0-0-1-1) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 2

- Item 2. **PRINCE OF PEACE PRESCHOOL – 38451 Fremont Boulevard - (PLN2004-00135)** – to consider an amendment to a Conditional Use Permit for a day care center for up to 47 children at an existing church located in the Centerville Planning Area. This project is categorically exempt from review under CEQA pursuant to Section 15314 (Minor Additions to Schools).

**MODIFICATION TO EXHIBIT “B” FINDINGS AND CONDITIONS**

*Add Condition 19 as follows:*

19. *The parallel parking spaces across the driveway and to the east of the proposed preschool must be dedicated for preschool use during preschool business hours. Those parking spaces must be striped to measure 8 feet x 22 feet as per City of Fremont Municipal Code. The patrons who have children enrolled in both the K-8 campus and the preschool are required to park their vehicles in the large church / school parking lot to the north of the campus and escort their children, including the preschoolers to their classrooms. Employees for the preschool will also be required to park in the main parking, as current school employees already do. The applicant must provide a clearly marked pedestrian walkway across the driveway to connect the preschool to those easterly parallel parking spaces, as well as to the rest of the K-8 campus.*

**HOLD PUBLIC HEARING;**

**AND**

**FIND THAT THE PROPOSED PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PURSUANT TO SECTION 15314 (MINOR ADDITIONS TO SCHOOLS);**

**AND**

**FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THE PROJECT CONFORMS TO THE GOALS AND POLICIES AS ENUMERATED IN THE STAFF REPORT AND FINDINGS EXHIBIT ADOPTED/RECOMMENDED HEREWITH;**

**AND**

**APPROVE PLN2004-00135, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B".**

The motion carried by the following vote:

AYES: 7 – Harrison, King, Lydon, Natarajan, Sharma

NOES: 0

ABSTAIN: 0

ABSENT: 1 – Weaver

RECUSE: 1 - Wieckowski

## **PUBLIC COMMUNICATIONS**

### **ORAL COMMUNICATIONS**

**Mark Robson**, Santa Clara Development Company, asked that a study session be scheduled to review current landscaping and engineering standards as they would apply to the higher zoning densities that were to be considered later in the hearing.

**Commissioner Natarajan** asked the speaker if he had a specific concern.

**Mr. Robson** replied that a minimum six-foot clearance for a tree was not always practical within an urban area; current parking space requirements were more generous than what was usually found in an urban setting; narrower street widths would help to reduce pavement areas, as required by the Regional Water Quality Board.

**Suzanne Hunziker** wondered how the City "had been changed to urban." She asked that City residents be better informed of the zoning changes. In her opinion, "All these property owners are getting fat and retiring in Arizona and Nevada." Local residents were not aware of (or had consented to) zoning changes within the tri-city area. She disagreed with rezoning undeveloped properties, as was to be heard later. Schools and traffic would be negatively affected, along with the Police and Fire Departments. She feared that the City would experience the same kinds of problems as Los Angeles and Oakland had. She stated that she did not want to live in a ghetto.

**Tony Betchart** disagreed that all property owners had sold their properties and moved to Arizona. His friend's business (Irvington Wheel and Brake) was closed due to the Irvington Overpass Project on Washington Boulevard and "the City tried to relocate him to San Jose." He expected that his friend would probably have to work for someone else, as he had been pushed out of his previous business location and had essentially lost his business, because he had not been helped to relocate within the City. The same also happened to Irvington Auto Body.

## PUBLIC HEARING ITEMS

- Item 7. **BAY STREET PLANNED DISTRICT – Bay Street between Fremont Boulevard and Chapel Way and on Papazian Way between Fremont Boulevard and Bay Street – (PLN2004-00277)** – to consider a rezoning from C-C (I) Community Commercial Irvington Overlay District to a Preliminary Planned District and to consider recommending approval of the Bay Street Urban Design Guidelines and Streetscape Plan for parcels generally located on in the Irvington Planning Area. A Mitigated Negative Declaration has been prepared for this project.

### **ADDITION TO STAFF REPORT**

**HARB Action:** *At its June 3, 2004 meeting, HARB recommended approval of the Bay Street plans with a condition that the historical marker program suggested in the Planned District be included in the scope of the street improvements as a definite element. The Board approved this recommendation with a 4-0 vote (one absent). The conditions of approval have been modified to include the HARB recommendation.*

### **MODIFICATION TO EXHIBIT “C” FINDINGS AND CONDITIONS**

*Add the following condition:*

4. *A program of historical markers shall be developed to inform the public of historical events and resources in the area. Historical markers shall be incorporated along the street and on private property.*

**Jake Lavin**, Housing and Redevelopment, summarized that a study session had been recently held where the draft final plans for the streetscape and the planned district had been presented. The creation of a planned district was hoped to encourage investment that would compliment the street improvement project.

**Commissioner Sharma** asked if progress had been made with the Post Office concerning the parking issue. How had the idea of the sharing of maintenance costs been received? Would the unknown parking and maintenance issues affect receiving the hoped-for grant?

**Project Manager Lavin** replied that the Redevelopment Agency Board had approved one million dollars in their budget for Bay Street parking, which would provide funding to pursue a solution with the Post Office; and, later this month, a plan would be presented during a workshop. Discussions had been held with all property owners, and the property owners were beginning to send letters of support for the project, which included support for contributions to a maintenance district. If and when the project was included on MTC's draft list, serious discussions would be initiated with the property owners to obtain a firm commitment from them to establish a maintenance district. If the parking and business improvement district were established, he believed a stronger case could be presented. However, The grant deadline was mid-July and both issues would not be resolved by that time. He hoped to show solid support by the property owners through their letters.

**Vice-Chairperson Wieckowski** opened the public hearing.

**Glen Rice**, Bay Street property owner, stated that he and his partners strongly supported the Bay Street program. He asked what the proposed assessment for the maintenance district would be.

**Project Manager Lavin** replied that, after the property owners and the City reached an agreement about the sharing of services, the property owners would have to decide what that assessment would be.

**Don Marshall** asked if the old '40's style homes and their businesses would stay after the project was finished.

**Project Manager Lavin** answered that the project would be limited to improving the public right-of-way.

**Associate Planner Meerjans** added that the intent of this planned district was to encourage higher density and redevelopment of those properties, such as additions and remodels to the facades, or the construction of new buildings.

**Vice-Chairperson Wieckowski** closed the public hearing

**Commissioner Natarajan** believed this was a wonderful step for Bay Street. She asked if MTC had had any input into what had been developed. What were the options to move this project forward, if the grant was not awarded?

**Project Manager Lavin** stated that MTC had reviewed the plans and was familiar with where the project was at this time. The City Council and the Redevelopment Agency had made appropriations (2.7 million dollars) for improvements along Bay Street, including funds for utility undergrounding. Of course, that was not enough money to complete the project as it was designed, so the level of design and improvement would have to be scaled back or other funding sources would have to be investigated.

**Vice-Chairperson Wieckowski** asked, regarding the parking waiver for the first retail and restaurant investors, how they would be encouraged to develop their properties before the public parking lot was funded.

**Project Manager Lavin** replied that the funds that could be used for public parking and the parking waiver were in hand. Depending on the total number of parking spaces, wherever the public parking lot was created, a certain number of spaces would be set aside for the first three investors. A waiver could be provided for someone who constructed a minimum 600 square foot new building or addition.

**Commissioner Harrison** asked if the Irvington Business Association had provided suggestions on this project.

**Associate Planner Meerjans** replied that six community meetings had been held and a steering committee had been created. Everyone seemed to be in agreement with the project, as it was before the Commission.

**Commissioner Sharma** complimented staff on the project. He had attended some of the evening meetings, and staff had planned them well. He stated that this was one of the best examples of the City going to the neighborhood and making the community a part of the project.

**Commissioner Natarajan** regarding Planned District, Exhibit B, page 2, asked if the list of permitted uses was consistent with the underlying zoning designations.

**Associate Planner Meerjans** replied that the uses were generally the Community Commercial uses.

**Commissioner Natarajan** asked why the uses were listed in the report rather than referencing the Community Commercial District. She asked why parking was considered a primary use rather than an associated use.



**Associate Planner Meerjans** responded that it seemed that the uses were clearer if listed within the document. A few of the uses had been prohibited or eliminated. One existing property had been developed for parking and would allow for future public parking. She offered to make that parking lot a conditional use to allow for review in the future.

**Commissioner Natarajan** agreed with her suggestion. Why were there no size limits on the bedrooms in the apartments/condominiums? Was that to control the massing?

**Associate Planner Meerjans** stated that the new Mixed Use Ordinance had no size restrictions for bedrooms. She agreed that it would control the massing and would help with parking requirements.

**Commissioner Natarajan** suggested changing the wording for the “zero setback” for the front of the building to a “build to line.” She suggested reviewing why overhangs and signage was shown twice in the document; perhaps it needed to be noted only once. Concerning the first three major projects, she asked how “major” was being defined. She asked if any retail would be considered.

**Project Manager Lavin** stated that a major project was 600 square feet or more when an addition was constructed. He agreed that retail was not defined.

**Commissioner Natarajan** agreed with the design guidelines. However, she asked why “pure, white walls” would be prohibited. She suggested that an architectural element should address the corner instead of forcing an entry at that point, because it might not work for some retailers. In her opinion, the raised traffic table at Bay Street and Trimboli Way was not appropriate for pedestrians and bicycle riders. She suggested decorative paving or a decorative band, instead, that would slow down traffic.

**Associate Planner Meerjans** replied that the consultant made the recommendation for the pure, white walls. The intent was to avoid a bright, pure white building without accent colors.

**Commissioner Harrison** reiterated that this large portion of public investment was hoped to spur private investment. He would support the project.

**Vice-Chairperson Wieckowski** stated that he appreciated the Historical Architectural Review Board’s comments and recommendations.

IT WAS MOVED (KING/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

**AND**

**RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;**

**AND**

**RECOMMEND TO THE CITY COUNCIL THE ADOPTION OF DRAFT MITIGATED NEGATIVE DECLARATION FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;**

**AND**

**RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE MITIGATION MONITORING PLAN FOR THE PROJECT;**

**AND**

**RECOMMEND THE CITY COUNCIL FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND LOCAL ECONOMY CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**RECOMMEND THE CITY COUNCIL FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE GOALS AND OBJECTIVES OF THE IRVINGTON REDEVELOPMENT AREA AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**RECOMMEND THE CITY COUNCIL APPROVE PLN2004-00277 IN CONFORMANCE WITH EXHIBIT "A" (REZONING EXHIBIT), EXHIBIT "B" (BAY STREET PLANNED DISTRICT PLAN); EXHIBIT "C" (PLANNED DISTRICT FINDINGS AND CONDITIONS OF APPROVAL); EXHIBIT "D" (BAY STREET STREETScape SCHEMATIC DESIGN CONCEPT); EXHIBIT "E" (PLANNED DISTRICT DESIGN GUIDELINES).**

The motion carried by the following vote:

AYES:	6 – Harrison, King, Lydon, Natarajan, Sharma, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	01 – Weaver
RECUSE:	0

**Vice-Chairperson Wieckowski** called for a ten-minute adjournment at 7:55 p.m.

**Vice-Chairperson Wieckowski** reconvened the meeting at 8:05 p.m.

**Deputy Planning Director Schwob** gave an overview concerning the three housing element items to follow. The process started at the state level with housing numbers assigned to each region. Then the Association of Bay Area Governments (ABAG) assigned the number of housing units that had to be planned for by each city. The City of Fremont's share was 6,708 units, which was received in early 2001. These were housing units with a range of affordability levels. Existing land inventory already zoned for housing purposes was not enough to meet the goal. Neighborhood and community meetings had been held over a year's time to educate the public about the program. A multifaceted approach was approved to meet the need:

- Revitalize shopping centers – Five older shopping centers were redesignated to allow for housing in either a mixed-use format or an all-housing format
- Second Dwelling Ordinance – Changed to encourage property owners to create second dwelling units on their properties
- Mixed-Use Ordinance – Allowed mixed-use development within most of the commercial zones in the City
- Redesignate commercial or industrial lands to accommodate housing
- Consider sites in proximity to transit services
- Rezone vacant and underutilized land to accommodate more units
- Consider excess public and semipublic lands

**Deputy Planning Director Schwob** continued by stating that over 600 sites had been identified. However, many of the sites had constraints, which brought the number down. State law required that cities must have a valid general plan that included a housing element that accommodated the regional housing needs. Without a valid housing element or a valid general plan, the City would be vulnerable to legal challenge, which could result in economic

sanctions against the City (i.e., the inability of the City to issue any building permits, which would hinder economic recovery). If the sites listed on this agenda were approved by the City Council, two-thirds of the goal would be met. Another 120 acres would need to be found for the final third. Of that, 55 percent would have to accommodate 20 or more units per acre. Varying densities would be between 15 and 70 units per acre. Typical rezoning issues were:

- Impact to schools – State law was very specific that the developer must pay a mitigation fee to the school district which could be utilized for more facilities to meet the need
- Impact on traffic – The roadway network for all the proposals had been evaluated by traffic engineers who concluded that the nearby streets and roads had the capacity to handle the increased densities. Specific projects would probably have traffic issues that would have to be further addressed
- Impact on water and sewer - Sufficient capacity was available

On sites that were already commercially or industrially designated, the infrastructure had already been sized to accommodate those uses, which tended to be larger than residential needs. As individual projects came forth, the specific concerns of the neighborhood would be addressed. The City was creating the capacity for developers and the marketplace to decide when and where housing would be provided.

**Item 8. HOUSING ELEMENT PROGRAM 18 – (PLN2004-00265 through PLN2004-00270) – to consider the following General Plan Amendment and Rezoning.**

Site 1 (PLN2004-00266) consists of approximately 2.76 acres located on the southeast corner of Fremont Boulevard and Beard Road in the Northern Plain Planning Area. The proposed project would change the existing General Plan land use designation of Medium Density Residential (6.5 to 10 dwellings per acre) and Gateway to Medium Density Residential (18 to 23 dwellings per acre) and Gateway. A rezoning of the site from the R-1-6 (Single Family Residential, 6,000 sq. ft. lot size) district to the R-3-23 (Multiple Family Residential) District is also proposed. A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 2 (PLN2004-00265) consists of approximately 5 acres of land located in three separate parcels on the southwest or “bay” side of Fremont Boulevard, northwest of the intersection of Fremont Boulevard and Ferry Lane in the Northern Plain Planning Area. The proposed project would change the existing zoning of the site from the R-G-24 (Garden Apartment Residential, 2400 sq. ft. minimum lot size per dwelling) district to the R-3-23 (Multiple Family Residential) District. A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 3 (PLN2004-00268) consists of approximately 12.75 acres and is located on the northwest corner of Fremont Boulevard between Decoto Road and Ferry Lane, in the Northern Plain Planning Area. The proposed project would change the existing General Plan land use and Centerville Specific Plan designation consisting of NC-Neighborhood Commercial and Low Density Residential (5 to 7 dwellings per acre) to NC – Neighborhood Commercial and Medium Density (18-23 units per acre) at the corner of Fremont Boulevard and Decoto Road and Medium Density Residential (18 to 23 dwellings per acre) for the remainder of the site. The redesignation will remove Study Area 6 designation from the subject parcels, and it will retain two parcels at the corner of Fremont Boulevard and Decoto Road in Study Area 8 (Centerville Specific Plan). A rezoning of the site from the R-1-6 (Single Family Residential, 6,000 sq. ft. lot size) and P, P-97-7 and P-95-1 districts to the Planned District P-2004-268 is also proposed. A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 4 (PLN2004-00270) consists of approximately 5.41 acres of land located in five separate parcels on the southwest corner of Mission Boulevard and Mowry Avenue in the Central Planning Area. The proposed project would amend the General Plan land use designation of Low Density Residential (5 to 7 dwellings per acre) and Foot Trail to Medium Density Residential (15 to 18 dwellings per acre) and Foot Trail. A rezoning of the site from the R-1-6 (Single Family Residential, 6,000 sq. ft. lot size) district to the R-3-18 (Multiple Family Residential) District is also proposed for the Site and the adjacent parcel immediately to the south of the Site. A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 5 (PLN2004-00267) consists of approximately 14 acres of land located on the northeast corner of Walnut Avenue and Guardino Avenue in the Central Planning area. The proposed project would amend the General Plan land use designation of Medium Density Residential (15-18 dwellings per acre) to High Density Residential (27 - 35 dwellings per acre). A rezoning of the site from the P-94-2 (Planned District) to the P-2004-267 (Planned District) is also proposed. A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 6 (PLN2004-00269) consists of approximately 3.97 acres of land located on the south side of Peralta Boulevard at Acacia Street in the Centerville Planning area. Area has been removed from consideration at this time.

### **MODIFICATIONS TO RECOMMENDATIONS**

#### **Revised Recommended Actions:**

Recommend Sites 1-5 to City Council.

1. Hold separate public hearings on Sites 1-5.

2. Take no action on Site 6 (PLN2004-00269 - Peralta Boulevard at Acacia Street and the church parcel [34734 Fremont Blvd] portion of Site 3).

3. Recommend to the City Council that the initial study conducted for Sites 1-5 PLN# 2004-00265, 2004-00266, 2004-00267, 2004-00268 [Excluding the Church parcel at 34734 Fremont Boulevard], ~~2004-00269~~, 2004-00270 has evaluated the potential impacts for Program 18 redesignations and rezonings that could cause an adverse effect, either individually or cumulatively, on wildlife resources, and find that there is no evidence the project would have any potential adverse effect on wildlife resources.

4. Recommend to the City Council the adoption of Draft Mitigated Negative Declaration for Sites 1-5 PLN# 2004-00265, 2004-00266, 2004-00267, 2004-00268 [Excluding the Church parcel at 34734 Fremont Boulevard], ~~2004-00269~~, 2004-00270, with accompanying Certificate of Fee Exemption finding that it reflects the independent judgment of the City of Fremont, and finding that there is no substantial evidence that the project, as mitigated, will have a significant impact on the environment.

5. Find that General Plan Amendments, the Rezoning to R-3-18, R-3-23, ~~R-3-27~~ and Planned Districts (P-2004-267 and P-2004-268) are in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Element Chapters as enumerated within the staff report.

6. Find that the existing commercial sites have relatively unique features and that their designation for higher density residential or combination of commercial and residential

developments requires specific design considerations to achieve these objectives; and are identified in the Housing Element such that the properties can best be developed as Planned Districts.

7. Make separate recommendations for each site recommending that the City Council approve Exhibits "A" (General Plan Amendments), Exhibits "B" (Rezoning), Exhibit "C" for the Centerville Specific Plan Amendment, and Exhibits "D" for the Planned Districts (P-2004-267 and P-2004-268) for the following sites:

Site 1 (PLN2004-00266) approximately 2.76 acres located on the southeast corner of Fremont Boulevard and Beard Road.

Site 2 (PLN2004-00265) approximately 5 acres of land located in three separate parcels on the southwest side of Fremont Boulevard, northwest of the intersection of Fremont Boulevard and Ferry Lane

Site 3 (PLN2004-00267) approximately 12.75 acres and is located on the northwest corner of Fremont Boulevard and Decoto Road [Note: This area excludes the Church parcel at 34734 Fremont Boulevard].

Site 4 (PLN2004-00270) approximately 5.41 acres of land located in five separate parcels on the southwest corner of Mission Boulevard and Mowry Avenue

Site 5 (PLN2004-00267) approximately 14 acres of land located on the northeast corner of Walnut Avenue and Guardino Ave.

**Commissioner King** asked if this matter was being undertaken pursuant to State law, and if the City did not meet the housing goals, the State could preclude the City from issuing all building permits. What law was this?

**Deputy Planning Director Schwob** replied that any member of the community could bring a suit against the City. He recalled a recent settlement by the City on this very matter.

**Senior Deputy City Attorney Seto** answered if the General Plan did not meet the State law elements, the State or an interested person could bring an action that said, since the General Plan did not meet the State requirements, no type of development would be allowed until the General Plan was brought into compliance.

**Commissioner King** asked if the Planning Commission was to recommend to the City Council that these five sites be rezoned? He believed that the public needed to know precisely the legal procedure that the Commission was to undergo.

**Deputy Planning Director Schwob** stated that six sites were listed under Item No. 8. Of those six, staff had recommended that the Commission decide upon the first five, with the sixth site being withdrawn from consideration at this time. The Commission was being asked to recommend that the City Council make general plan land use changes and approve the rezoning of Sites 1 through 5 to the specified densities. If this were recommended to the City Council at this hearing, the City Council would hold a public hearing, tentatively set for July 13<sup>th</sup>, to make the final decision. The neighborhood meetings and subsequent review of projects would come about as developers came forward with plans for specific properties.

**Vice-Chairperson Wieckowski** added that any of the public attending this hearing could ask to be notified of any particular project that might come forward.

**Deputy Planning Director Schwob** clarified that any property owner within 300 feet of a proposed development would automatically be notified. If they were beyond the 300-foot distance, they might not be notified and would need to request notification.

**Commissioner Sharma** asked if a developer was obligated to develop the site at the density that was decided upon for a particular site. A developer could choose to build at a lower

density. He asked if data existed that showed how affordable housing units affected surrounding properties. In his opinion, a project in his area did not cause housing values to decline. He also noticed that traffic and/or crime had not increased.

**Deputy Planning Director Schwob** clarified that the General Plan specified that development must be at the midpoint to high end of each range (e.g., 8.3-10 within 6.5 to 10 range), if the parking requirements and all of the other parameters were met. Historic or environmental constraints could allow the density to drop below the midpoint (i.e., if an existing home with significant architectural qualities was retained). The 100 percent affordable housing project near Commissioner Sharma's home had not affected the local property values, as all housing products continued to rise in value. In some instances, a neighborhood eyesore that underwent development enhanced the surrounding property values.

**Commissioner Lydon** noted that the change in density sometimes left figures that were not identified, for example, a density of 6 to 10 per acre with the next range of 18 to 23. What happened to 11 to 17?

**Deputy Planning Director Schwob** stated that the Commission could recommend a range that was lower than was recommended by staff. A higher density, however, would have to be reanalyzed. For every site where a lower density was decided, another site would have to be identified to make up for the lower density. Higher densities on tiny infill sites were very difficult.

**Commissioner Harrison** asked if any of the elements went forward, could any of them be redesignated for mixed use.

**Deputy Planning Director Schwob** replied that some designations did allow for retail on the ground floor when the building was along a major boulevard or street. A mixed-use project would not be allowed on a side street that did not have the carrying capacity for the traffic that would be created by the retail component. A commercially designated site could accommodate residential housing in a mixed-use format. All sites referred to in this item were zoned residential and did not have a commercial overlay.

**Senior Planner Livermore** added that 2,006 notices were sent for Item #8. Regarding the letters received by staff and the Commissioners, 24 letters concerned Site 6 (Peralta-Acacia); 12 letters concerned Site 3 (Fremont-Decoto); and two faxes concerned Site 5 (Guardino-Walnut).

**Vice-Chairperson Wieckowski** opened the public hearing for Site 1, the fruit stand on Fremont Boulevard and Beard Road. He asked for a show of hands from people who wished to speak about this particular site.

**Brad Jensen** stated that he was opposed to the redesignation of Sites 1, 2 and 3. "The schools were packed; the fire station's on part-time." He could envision 75 people who owned 75 vehicles living in the 50 units with probably 75 new children attending the local school.

**Commissioner Sharma** asked how many people did the speaker know whose children no longer attended the local schools. He wondered what would happen to the schools if no new children came into the neighborhood.

**Mr. Jensen** replied that his children were too old to attend the local schools, and he knew of approximately six other families whose children no longer attended the local schools. He believed that new families could be absorbed at the present zoning densities, but not when higher densities were reached.

**Natalie DeGennaro** stated that she lived directly across from the fruit stand. The traffic and accompanying pollution was worse every year. She did not want her view of the fruit stand and the property surrounding it to be taken away. She believed that the value of her residence would be negatively affected. She asked why the density had to be increased at this time. In her opinion, any rezoned property would immediately be developed to the higher density. She believed that other sites should be rezoned at this time and that it was not necessary to rezone Site 1 at this time. She also believed that the City would do what it wanted to do, regardless of what the public wanted.

**Commissioner King** understood that the State required the City to rezone appropriate sites now, because not enough residential property was available to support the State-mandated housing. It was natural for people to oppose rezoning to higher densities in their neighborhoods. He asked how it could be done differently so that people would approve.

**Deputy Planning Director Schwob** stated that he was correct.

**Ms. DeGennaro** asked why the State had mandated this particular number of housing units for the City.

**Commissioner King** speculated that this mandate would allow people within all ranges of income to afford to live in the City, i.e., her son after graduating from high school. Fremont was not a 20,000 resident hamlet, but a 210,000 resident city; it was the price one paid for growth.

**Kelly Mettan** stated that she was opposed to the redesignation of all the sites. She saw high density housing being built in North Fremont, but did not see anything similar in the Mission Hills area. She knew of a family of six living in one of the small houses within the sites to be redesignated that was denied a permit to add a bathroom. She believed that the current residents would be squeezed out. To her, affordable housing meant low-income housing for families with children. She questioned the traffic studies. She believed the rezoning was "about money, money for and from the developers to this city and to others."

**Commissioner Sharma** described the Mission area when he first moved into his home and how it had changed over time. The point was that one could not expect nothing to change in the City. Was it fair to try to keep people from coming into an area because one did not want it to change? He stated that he cared for the City and its residents as much as he cared for his local area.

**Ms. Mettan** apologized to Commissioner Sharma if he felt that he had been insulted. She stated that 2,000 apartments that might be built across the street from her did not compare to the changes that Commissioner Sharma had noted in his neighborhood.

**Vice-Chairperson Wieckowski** reminded the public that this forum was to allow comments from the public and a debate was not appropriate at this time.

**Kelly Hopkins** stated that it seemed the Mission area was not slated for the same amount of low-income housing that the rest of the City was going to have to live with, which was unfair. She asked how she could find out where the affordable housing was slated to be and how it was decided.

**Vice-Chairperson Wieckowski** suggested that she contact any staff or her councilmember. He announced that zoning changes for specific sites were on this agenda for this hearing and a symposium on housing was unfair to others.

**Ms. Hopkins** asked if information could be posted to clear up the uncertainties rather than an interested party having to write a letter to get answers.

**Deputy Planning Director Schwob** replied that the City's Housing Element had been posted on the City's website for more than two years, which would be a good primer for all interested persons. The website was [www.fremont.gov](http://www.fremont.gov). Click on the Planning Division page and scroll down to the bottom of the page where the Housing Element could be found.

**Senior Planner Livermore** clarified that not all projects would be for low-income housing. The State required that housing needs for a certain number of people must be met. However, developments that met a certain density did not necessarily mean that the units would not sell at the market rate, which was not low income. She asked that the public contact her next week with their questions.

**Linda Williams** stated that low-income property took some time to become rundown due to no interest in that property by its owner. It was always attractive when first built. Twenty-five of the acres to be rezoned were between Decoto Road and Beard Road. It was not fair to the homeowners in single-family developments to allow high density developments so close to them. She wanted the City to stay the way it was.

**Dorothea Tiong** had lived on Silverlock Road for 25 years, and she complained about the potential for increased traffic, crime, noise and air pollution and the destabilization of the community. She had had an unpleasant experience with renters who had lived in subsidized housing behind her home, and she believed that low-income apartment dwellers could have the same lifestyle. Apartments and commercial space were available all along Fremont Boulevard, and she asked, "Where is the desperate need for housing?" Why did the City have to become urban? No one wanted the City to be like San Francisco or Oakland. This was a suburban community.

**Rob Vessy** stated that he had lived in the City for eight years and now owned several rental properties in the City. He stated that rents "were at rock-bottom lows" and he wondered why anyone would want to build apartments at this time. He asked if the Commission wanted people to come to the City because it was the least expensive city to live in the Bay Area and these people had no pride in the community. He felt that the whole community would be pulled down. He then noted that he had looked at two-bedroom, two-bath condominiums in the City that were selling for 400,000 dollars, which translated into homes that were too expensive.

**William Matlack** stated that he lived near the farm and he stated that he had empathy for staff and the Commission, because any decision was difficult. The State was bullying the City to urbanize it and to destroy all of the things that made it unique. Infrastructure was not planned to be increased and police and fire services were being decreased. He believed that crime would increase and the quality of life would decrease. He challenged the Commission to stand up to the State and not allow it to force decisions that would be "bad and wrong for our community."

**Kevin Gersten** acknowledged that this topic was an emotional issue. He would like to see the study that said that low-income housing would not affect the neighborhood property values. Property in a good school district, such as the Mission District, was highly valued, whereas, homes in an area with blight and average schools would not garner premium prices. He suggested that the Commission should critically analyze the studies. He felt that a "hodge-podge, band-aid system" had been in effect throughout the City, that there was no flow and that no one's needs had been taken care of.

**Vice-Chairperson Wieckowski** closed the public hearing.



**Commissioner King** asked what kind of deadlines did the City face when implementing the State's plan. He stated that he appreciated the work that staff had done to bring these sites before the Commission. He asked if more time could be taken to look at other sites that had not been considered before. He agreed with the speaker who asked the City to challenge the State to avoid becoming a city that many people did not want to become. He asked what the consequences would be and how the State could cause this.

**Deputy Planning Director Schwob** replied that the Housing Element stated that the City would complete the rezoning and redesignation efforts this year. The concept was that the property had to be available for a developer to have the time to construct the units by 2007, as mandated by the State. He agreed that the current apartment rental vacancy rate did not exist when the State sent the numbers down to the cities. For this reason, it was not likely that more apartment projects would be built because of the higher vacancy rates, which were at 5.4 percent a month ago, compared to under one percent two years ago and could be attributable to the economy. Without more housing stock within the Bay Area, housing would increase in the outlying areas, which, in turn, would create more traffic and pollution from people trying to get to their jobs in the Bay Area. The theory was that people should live close to their jobs. He stated that the Planning Commission should take the time that it felt was necessary to make recommendations to the City Council, as should the City Council. This was the best attempt at finding parcels that would be most able to accommodate housing. The next batch of sites would be more difficult, more challenging and more infill.

**Senior Deputy City Attorney Seto** stated that ABAG, an organization that represented 13 Bay Area Counties forecasted what the residential and employment population would be for this area. Based upon that estimate, certain numbers were sent to each city. Some cities and counties did challenge those numbers when they came out; Fremont did not, although some concerns were raised at the time. If lower densities were set with this portion of the Housing Element, then higher densities would have to be set for the more difficult sites.

**Commissioner Sharma** recalled that the City had met many times with concerned citizens regarding the Bay Street project and a consensus had been built. Perhaps, something like that should be done here, as most of the speakers claimed that they knew nothing about the Housing Element until a few days ago. He felt that it would have been practical to involve the neighborhoods "from time zero and make sure that we did knock on their doors, so that they don't complain later on." He believed that most city residents would be reasonable, if they had more information.

**Deputy Planning Director Schwob** replied that for the last two years, efforts had been made to involve the community in this process, of which this public hearing was a part. The City had no specific proposals with the specific detail that the surrounding property owners were asking for. This is a general land use and corresponding zoning action.

**Commissioner Natarajan** opined that this was an enormously difficult task that staff had undertaken. It had already been a long, hard process. She sympathized with the community, because much of it was hard to understand. When staff talked about 11 to 18 units per acre, they were talking about attached townhouses, not apartments. Smart growth and infill projects were a great idea. How they were implemented, what the design would be and what the impacts would be was what needed to be studied. This was a first step. She told of a tour that the Planning Commission and the City Council took to observe infill projects to see what they looked like, what the impacts were to the neighborhoods in which they were located, what kinds of people lived in the projects and what the downside was. There was a lot of literature that could be used as a resource for interested parties. She asked how staff had decided on 18 to 23 units per acre as the appropriate density for this site.

**Deputy Planning Director Schwob** stated that the range seemed to be appropriate in scale, in mass and size for this site compared to the existing housing around it.

**Commissioner Natarajan** asked if a quick study had been made on the sites that were smaller than three acres to determine the actual development capacity. She believed that this site was capable of accommodating 11 to 15 units per acre, given the prototype of attached townhouses.

**Deputy Planning Director Schwob** replied that the prototype envisioned was not townhouses, but would be similar to a recently approved project on Mission Boulevard and Walnut Avenue, a much smaller corner site, which was be a combination of townhomes, condominiums or flat units over parking that would be tucked a half-level under the building and would be in the 18 to 23 unit per acre range. It could also be a bigger or taller building in one area with smaller buildings in another area of the site. Site plans for every site had not been sketched with parking and lay out of the buildings. Based upon other projects built on other similar sites, staff believed this site had the capacity for 18 to 23 units per acre. The Commission could recommend a lesser density; however, the density may have to be made up on a smaller, more difficult sites that remain.

**Vice-Chairperson Wieckowski** called for a ten-minute recess at 9:35 p.m.

**Vice-Chairperson Wieckowski** reconvened the hearing at 9:45 p.m.

**Vice-Chairperson Wieckowski** announced that the public hearing would be opened for discussion of Item 9, Program 21, Site 3, Guardino Drive and Mowry Avenue, as Commissioner Harrison had a conflict.

**Commissioner Harrison** recused himself from discussion of the above site, because he and his wife had a real estate interest in a nearby property.

**Vice-Chairperson Wieckowski** asked the other Commissioners if they would agree to not take any action on any of the programs (Programs 18, 19 and 21) before the Commission, because so many members of the public wished to make comments. The public hearing would stay open and would be continued to the next scheduled hearing to allow for all comments to be made.

**Commissioner King** suspected that most (if not all) of the future speakers would be opposed to whatever site was under discussion and the comments would be similar to what had already been heard. Therefore, he was persuaded that more time should be taken to study these programs. He asked for a one-page summation from the City Attorney concerning the historical legal ramifications about how ABAG arrived at the numbers that were given to the City. It may be that the City would have to adhere to the State requirements and he acknowledged that the next group would be very difficult.

Planning Director Meeker introduced Item 9, Sites 1-3 as follows:

**Item 9. HOUSING ELEMENT PROGRAM 21 – (PLN2004-00251, and PLN2004-00272 through PLN2004-00275)** – to consider the following General Plan Amendment and Rezonings:

Site 1 (PLN2004-00275) - consists of approximately 7.75 acres located on the northwest corner of Stevenson Boulevard and Mission Boulevard in the Central Planning Area. Area has been removed from consideration at this time.

Site 2 (PLN2004-00273) – consists of approximately 3.72 acres located on the northwest corner of Paseo Padre Parkway and Mowry Avenue in the Central Planning Area. Area has been removed from consideration at this time.

Site 3 (PLN2004-00274) consists of approximately .99 acres located on the southwest corner of Guardino Drive and Mowry Avenue, in the Central Planning Area. The proposed project would change the existing General Plan land use designation of Neighborhood Commercial to Medium Density Residential (18 to 23 dwellings per acre). A rezoning of the site from P-87-10 (Planned District) to the R-3-23 (Multiple Family Residential) District is also proposed. A Mitigated Negative Declaration has been prepared and circulated for this project.

**Vice-Chairperson Wieckowski** opened the public hearing for Item 1, Program 21, Site 3. He also announced that all of the other programs and sites would be publicly discussed afterward.

**Kevin Gersten** asked if 500 homes would be allowed down the street from this site with another 25 homes on this site within less than one-quarter mile. The street was one lane in either direction and the surrounding residences were a combination of single-family homes, three-story buildings that had been apartments and were newly converted to condominium homes, and numerous townhomes that overlooked the single-family dwellings. He foresaw traffic problems and busing issues for the school children. He claimed children and adults from a nearby low-income project littered his and his neighbors' driveways and threw trash into the backyards from their condominiums. He suggested that high rise buildings be constructed in the downtown district and could include affordable and low-income units, which would not impact the suburban, single-family neighborhoods.

**Natalie DeGennaro** understood that planning had to be done for future development, but she questioned why most of it seemed to be in North Fremont and not spread out among all of the districts, regardless of the site development difficulty. The unit numbers given to the City by the State were decided upon when the economy was much better. She suggested that the City ask for a reassessment of the units to be developed within the City. She wondered why the City of Saratoga had half-acre lots with single-family homes and no high rise units.

A member of the public asked when Decoto Road would be discussed.

**Vice-Chairperson Wieckowski** stated that the site she was interested in would come up next.

**Vice-Chairperson Wieckowski** closed the public hearing on Site #3. Commissioner Harrison rejoined the Commission proceedings.

**Planning Director Meeker** introduced the remaining sites as follows:

Site 4 (PLN2004-00251) consists of approximately 1.26 acres located on the northeast corner of Niles Boulevard and Kraftile Road in the Niles Planning Area. The proposed project would change the existing General Plan land use designation from General Industrial to Medium Density Residential (15 to 18 dwellings per acre). A rezoning of the site from the G-I (General Industrial) District to the R-3-18 (Multiple Family Residential) District is also proposed. A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 5 (PLN2004-00272) consists of approximately 25.29 acres located on the southwest corner of Kato Road and Warm Springs Boulevard in the Industrial Planning Area. The proposed project would change the existing General Plan land use designation from Restricted Industrial (with a Commercial-Industrial Overlay) to Medium Density Residential (11 to 15 dwellings per acre), Medium Density Residential (18 to 23 dwellings per acre), and High Density Residential (23 to 27 dwellings per acre). A rezoning of the site from the I-R (Restricted Industrial) District to the R-3-15 (Multiple Family Residential), R-3-23 (Multiple

Family Residential) and R-3-27 (Multiple Family Residential) Districts is also proposed. A Mitigated Negative Declaration has been prepared and circulated for this project.

### **MODIFICATIONS TO RECOMMENDATIONS**

Revised Recommended Actions:

1. Take no action on Site 1 (PLN2004-00275 – Stevenson Blvd near Mission) and Site 2(PLN2004-00273 Paseo Padre at Mowry Ave)

2a. Hold a *separate* public hearing on Site 3, then complete recommendations 3-7.

2b. Hold separate public hearings for Sites 4 and 5 and then complete recommendations 3-7.

3. Recommend that the City Council find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources *on Sites 3, 4 and 5.*

4. Recommend that the City Council approve the Mitigated Negative Declaration and find it reflects the independent judgment of the City of Fremont *on Sites 3, 4 and 5.*

5. Find that General Plan Amendments, the Rezoning to R-3-15, R-3-18, R-3-23 and R-3-27 are in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Element Chapters as enumerated within the staff report *on Sites 3, 4 and 5.*

6. Find that once the redesignation and rezoning is approved for ~~each~~ Sites *3, 4 and 5*, that each development project that is proposed on these sites will be required to be evaluated individually for its design and conformity to adopted Fremont codes.

7. *Make separate recommendations for each site* recommending that the City Council approve Exhibits "A" (General Plan Amendments), and rezone them to R-3-15, R-3-18, R-3-23 and R-3-27 in conformance Exhibits "B" (Rezoning) for the following sites:

*Site 3 (PLN2004-00274) approximately .99 acres located on the southwest corner of Guardino Drive and Mowry Avenue.*

*Site 4 (PLN2004-00251) consists of approximately 1.26 acres located on the northeast corner of Niles Boulevard and Kraftile Road.*

*Site 5 (PLN2004-00272) consists of approximately 25.29 acres located on the southwest corner of Kato Road and Warm Springs Boulevard.*

**Planning Director Meeker** introduced the remaining items as follows:

**Item 10. HOUSING ELEMENT PROGRAM 19 – (PLN2004-00112, PLN2004-00279 and PLN2004-00280)** – to consider the following General Plan Amendment and Rezoning:

Site 1 (PLN2004-00112) consists of approximately 1.51 acres located on two properties at 41223 and 41239 Roberts Avenue in the Irvington Planning Area. The proposed project would change the existing General Plan land use designation of Medium Density Residential (15 to 18 dwellings per acre) to High Density Residential (23 to 27 dwellings per acre). A rezoning of the site from the R-G-29 (Garden Residential, 7,500 sq. ft. lot size) district to the R-3-27 (Multiple Family Residential) District is also proposed; the flood channel, would retain its O-S(I) Institutional Open Space designation. A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 2 (PLN2004-00279) consists of approximately 30.79 acres on twenty-five (25) properties located on Osgood Road between Washington Boulevard and Blacow Road in the Irvington Planning Area. The proposed project would change the existing General Plan land use designation of Light Industrial to High Density Residential (23 to 27 dwellings per acre) for 41655, 41791, 41868, 41829, 41875, 41911, 41965, the westerly portion of 42000, 42111 and 42183 Osgood Road. Very High Density Residential (27 to 35 dwellings per acre) is proposed for the easterly portion of 42000, 42028, 42088, 42218, 42218, 42270, 42282 and 42536 Osgood Road. A rezoning of the site from the I-L (Light Industrial) district to the R-3-27, or, alternatively R-3-35 (Multiple Family Residential) District is also proposed, respectively. For 41646, 41688, 41700, 41742, 41753, 41760, 41786 and 41816 Osgood Road, the proposed General Plan land use designation change is to Low Density Residential (5 to 7 dwellings per acre); these addresses proposed for Low Density Residential would have a new zoning designation of R-1-6 (Single Family Residential). A Mitigated Negative Declaration has been prepared and circulated for this project.

Site 3 (PLN2004-00280) consists of approximately 5.72 acres located at 1760 Mowry Avenue at the southwest intersection of Mowry Avenue at Waterside Circle at the Fremont BART Station in the Central Planning Area. The proposed project would change the existing General Plan land use designation of Central Business District and Public Facility to Very High Density Residential (42.5 to 50 dwellings per acre). A rezoning of the site from the CBD (Central Business District) and OS (Open Space District) to the R-3-50 (Multiple Family Residential) District is also proposed. A Mitigated Negative Declaration has been prepared and circulated for this project.

### **MODIFICATIONS TO RECOMMENDATIONS**

#### **Revised Recommended Actions:**

1. Hold separate public hearings on Sites 1-3.
2. Recommend that, based on the information contained in the initial study, staff report, and testimony at the public hearing, the City Council find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Recommend that the City Council approve a Mitigated Negative Declaration and find it reflects the independent judgment of the City of Fremont. Find that the General Plan Amendments, and the rezoning to R-1-4, R-3-27, R-3-35, R-3-50 and PF Districts are in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Element Chapters as enumerated within the staff report.
4. *Make separate recommendations for each recommending that the City Council approve Exhibits "A" (General Plan Amendments), and rezone them to R-1-6, R-3-27, R-3-35 and R-3-50 in conformance Exhibits "B" (Rezoning) for the following sites:*

Site 1 (PLN2004-00112) approximately 1.51 acres located on two properties at 41223 and 41239 Roberts Avenue

Site 2 (PLN2004-00279) approximately 30.79 acres on twenty-five (25) properties located on Osgood Road between Washington Boulevard and Blacow Road.

Site 3 (PLN2004-00280) approximately 5.72 acres located at 1760 Mowry Avenue at the southwest intersection of Mowry Avenue at Waterside Circle at the Fremont BART Station.

**Vice-Chairperson Wieckowski** opened the public hearing for **Item 8, Program 18, Sites 2, 3, 4 and 5; Item 9, Program 21, Sites 1, 2, 4 and 5; and Item 10, Program 19, Sites 1, 2, and 3.**

**Jessie Campbell** stated that she was hard of hearing and would do her best. She noted that she knew some of the Commissioners and was unfamiliar with others. She stated that she had raised five children who had attended and graduated from the local public schools. All the schools in all the districts were equally good, so no one should feel that one needed to move to a certain district to provide an excellent education for one's children. She stated that, in the past, she had served on the Planning Commission for nearly four years. She reminded the public and the Commission that the decisions made mattered to the people who lived in the affected areas. She asked what was decided when the mayors of Union City and Fremont met after the study session on the route 84 project and use of Measure B funds.

**Vice-Chairperson Wieckowski** stated that he had no answer regarding the conversation between Mayor Green and Mayor Morrison. He stated that staff would try to obtain an answer for her.

**Jim Hall**, Fremont resident for 31 years, stated that he had received a notice. The rezoning of the property behind him would negatively affect his quality of life. Parking was already difficult and condominium residents allowed their vehicle alarms to stay on without attempting to turn them off. He had noticed graffiti on nearby fences and the grocery stores had installed alarms at the doors to stem stealing. He stated that his children were bused to school, because the local school property had been sold to developers who constructed the condominiums. He asked that the housing requirements be taken back to the State, as their requirements were not in the best interest of City residents.

**Vice-Chairperson Wieckowski** asked if Mr. Hall was close to the RiteAid parcel.

**Mr. Hall** replied that his property backed up to 34653 Fremont Boulevard, down the street from RiteAid.

**Tony Betchart** stated that his family had lived in the City for approximately 70 years. He suggested that staff should speak with the police and fire departments, along with some of the schools, to ascertain what their opinion was of this plan to redesignate the zoning densities. He wondered where the new residents would work if the commercial and industrial districts were used for housing. He stated that, as a contractor, he knew developers who were not interested in building in the City because staff "was a pain in the butt to deal with." He mentioned Boyce Road, Roberts Avenue, Main Street, Lincoln Avenue, Union Street and Railroad Avenue, as examples of where high density residential zoning might work better.

**Joan Matlack** stated that she lived near the orchards and was interested in addressing the Guardino and Walnut farm. She was grateful that Mr. Guardino told everyone that his land would not be developed as long as he was alive. She noted that changing the density of certain parcels did not mean that the owner would develop his property and that those potential residences that the previous speakers feared would be built. She was thankful that the Schools for the Blind and Deaf were nearby or those parcels would have probably been redesignated to high density. She agreed that more people could bring unsavory elements into the district, as she had noticed more gang markings and they were growing and it was bad and scary. She also asked if every single piece of land had to be developed, as was done in Los Angeles. She thanked Commissioner King for suggesting that more time should be taken to consider these issues.

**Anita Deppner** stated that she was an orchards resident near Program 18, Site 5 and was close to the BART station. She felt that she would not be able to retire in the City because of the many changes, although her children and family lived here. She agreed with all the comments made by the previous speakers. She complained that it took so long for things to happen in the City (i.e., BART) and she wondered why staff had not questioned the residential unit numbers given to the City by the State. She encouraged the City to investigate lowering the numbers.

**Marsha Marshall** stated that she had been born and raised in the City and one of the proposed redesignated parcels was next to her property. She threatened to move if the property was developed with high density homes, as she and her husband would lose their privacy and people would be able to look into her kitchen. She also agreed with everything said by the previous speakers.

**Don Marshall** stated that he had lived in the tri-city area all of his life and had worked as a police officer, except for the six years he lived in Pleasanton (which he apologized for). He had been excited about the changes that would be coming to the Irvington area. However, 30 days ago, he had received a notice regarding the zoning redesignation. He displayed a national advertisement that publicized the Irvington District as an attractive place to live with medium density housing used as an example. He asked that the medium density stay the same.

**Pat Karrick**, Osgood Road property owner, stated that he was astonished that the redesignation was planned without any input from him or any of the other people who received notices. He believed that his business of 20 years would be closed down by this rezoning.

**Joe Elam** stated that he was noticed concerning Osgood Road, but had not received a notice for the "other property" and had been unaware of it until he read about it in The Argus. He suggested that the Commissioners tour Tennyson Boulevard in Hayward to see what the redesignation would look like in a few years. He also believed that the unit numbers should be challenged, because the data was out of date and the economy was not as robust. He thanked the Commission for listening to the speakers.

**Tony Goncalves**, business owner on Osgood Road, stated that he was upset about changing the zoning for Osgood Road to allow residential. He feared losing income from his business and his property next door and he feared increasing crime. He agreed that it was unfair to elderly residents who might have multi-family units next door to them.

**Glen Toth** stated that he was speaking for **Mrs. Rieko Kawabata** who lived on Fremont Boulevard between the RiteAid and the church for 24 years. She was 47 years old, partially blind, her husband had died a year ago and she had three children. Mrs. Kawabata would probably lose her home to foreclosure if it was not sold. With the redesignation, she should be able to sell her home for twice what it was worth a few months ago, and he asked when the redesignation was likely to take place. He stated that neighbors had become greedy, because of offers from developers.

**Miriam Keller**, representing Congregations Organizing for Renewal (COR), stated that she had never heard so many false statements as she had heard from this audience. She clarified that when a property was rezoned, nothing might happen with that property. The City was not taking the property. A developer could buy the property from the present owner to construct the kind of project that he thought would provide a profit. If the developers did not come forth with residential projects, the law of supply and demand guaranteed that the price of her house would "go to the stratosphere." A first year teacher or anyone in retail would be considered low income. The average income in Alameda County was 91,000 dollars a year for a family of four. She had been aware of the Housing Element since its inception, and she wondered why the speakers claimed no knowledge of it until recently. Housing was a problem and developers should be encouraged to build here in the City.

**Rob Vessey** apologized to the Commission, if he had insulted anyone when he spoke before. He stated that this issue was so important to him and his wife that they had driven from Santa Cruz to attend this hearing. He now felt more optimistic than he had at the beginning of this hearing that the Commission would thoroughly review the information before making a decision. He agreed with the idea of challenging the study that was performed in 1999, which was the basis for the numbers of units that were mandated by the State for the City. He guessed that approximately 70 percent of the City's apartment units would be built in the Walnut Avenue, Stevenson Boulevard and Mowry Road area. He agreed with other speakers that it seemed that there was a lack of a cohesive plan.

**Jacline Deridder** supported eliminating the Guardino and Walnut Avenue site from redesignation. "Organic veggies" were grown on this site at a time when grocery stores bought "veggies from mega-

farms overseas.” It was important for children to learn that veggies grew in the dirt and required a lot of care.

**Kevin Gersten** challenged the Commission to:

- Develop a coherent plan for 6,000 housing units within the City – It did not have to be all at once, as City residents would “be up in arms, beating down your door opposing their piece of the pie . . . This piece-meal approach just doesn’t cut it.”
- Critically research the affect of low-income housing on the value of neighboring properties, as he promised to do.
- Traffic studies should be readily available to the public to allow speakers to present educated arguments to the Commission.

**Victor Churchill** spoke concerning Program 18, Sites 2 and 3. He asked that they stay as they were, due to traffic, parking problems and the potential devaluation of surrounding properties.. He also agreed that the number of housing units should be challenged.

**Dorothea Tiong**, previous speaker, told of a friend who was a first-time homeowner who would not have a paid a premium for her home if she had known that apartment buildings could be constructed next door. An urban environment was not what most City residents wanted; they wanted a safe haven for their children; and they worried about low-income renters who felt no investment in their areas or in the City. Teachers were not considered undesirable neighbors. High density housing did not belong among low density, single-family homes. She asked that a comparative study be performed to illustrate how many units would be designated for each district in the City, as she believed that North Fremont had been singled out for this high density rezoning.

**Julia Phu**, nine-year resident who worked in Sunnyvale, stated that she had chosen to purchase a home in the City rather than in Santa Clara County. It had been rated one of the top three Cities in the nation, but recently it had slipped to number nine. Colleagues who had previously admired the City told her that they no longer wished to live in here, because crime had increased. She believed that when more high-density housing was needed, it was dumped on the Guardino and Walnut Avenue area.

**Vice-Chairperson Wieckowski** announced that the public hearing would be continued to June 24<sup>th</sup>.

**Commissioner Natarajan** suggested that appropriate resources be listed on the City’s website so that the interested community could access it, as a previous speaker had indicated he would do.

**Commissioner Lydon** thanked the public for bringing its concerns forward. He stated that the seven Commissioners did not arrive at the meeting with preconceived opinions about the items they were scheduled to review. The Commissioners were all Fremont residents and had the same concerns as had been expressed tonight. Government at its worst and best had been seen at this hearing: At its worst, the State of California and ABAG may have set an artificial standard and were moving targets that could not be adequately explained to the public. On the other hand, this forum allowed interested people to express their opinions to the Commission (and hopefully the Council) about the direction the City might be taking. In a City of 220,000 people, it was not practical to think that an empty lot would not be up for consideration – something would happen to it. He believed that some of the opinions expressed tonight were driven by fear and misinformation. It was not the Commission’s intent to attract crime and exacerbate traffic problems. These housing matters were brought by staff who were trying to fulfill what they understood to be an edict from the State of California. If that was erroneous information and was not the case, these matters would be looked at differently. The key was balance, and staff and the Commission had tried to keep a balanced, sensible and sane approach.

**Commissioner Sharma** agreed with Commissioner Lydon’s remarks. All the Commissioners lived in the City, and they all cared as much about the City as did the speakers.

**Vice-Chairperson Wieckowski** asked that the letters he had received be made part of the public record, along with the letters sent to Chairperson Weaver.



**Commissioner Harrison** asked if it was appropriate for the Commissioners to email concerns and questions to staff.

**Planning Manager Meeker** agreed that would be appropriate.

## MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

**Deputy Planning Director Schwob** announced that a community meeting would held concerning the revised draft of the Irvington Concept Plan on Thursday, June 17<sup>th</sup>, 6:00 p.m., at the Irvington Community Center.

**Vice-Chairperson Wieckowski** noted that the study session on the Centerville Unified Site Plan had been originally scheduled to start at 6:00 p.m. with the public hearing scheduled to begin at 8:00 p.m. on it and on tonight's items that had been continued to June 24<sup>th</sup>, along with Warm Springs BART station and Measure T. He suggested that the study session begin at 5:00 p.m. to allow the public hearing to begin at the normal 7:00 p.m. hour.

The rest of the Commissioners agreed.

- Information from Commission: Commission members may report on matters of interest.

**Commissioner Sharma** read a statement concerning the Planning Commission of meeting of May 27, 2004:

"At the May 22<sup>nd</sup> (sic) meeting, the Planning Commission took action on a proposed residence on East King Avenue, where Dr. Goney Sandhu was the applicant. Because of some concern raised after the hearing by an interested member of the public, I want to make very clear, for the record, that I do not have, and never did have, directly or indirectly, any business relationship with Dr. Sandhu. The only time I directly worked with Dr. Sandhu was for Indo-American Charity Ball to raise funds for the Tri-City Homeless Coalition, which most of you know is a best program, locally. Since we were both non-paid volunteers, this is not a conflict of interest as defined by State, and I have also verified with the City Attorney's office. Furthermore, no member of my family, including my wife, Rajina Sharma who is currently the elect Chief of Staff at Washington Hospital, have ever had any business relationship with Dr. Goney Sandhu."

**Commissioner Sharma** closed by stating that he had come to the meeting with an open mind, as he had today, read the staff report, heard testimony and listened to the discussions of his fellow Commissioners before reaching a decision.

**Commissioner Harrison** asked staff that a study session be scheduled in the future about the engineering and landscaping designs, as requested by Mr. Robson earlier in the meeting.

**Commissioner Natarajan** asked if the Planning Commission annual retreat was to be scheduled in the near future, as she believed that many of these issues could be discussed at that time.

**Planning Manager Meeker** promised to discuss the annual retreat at staff level and report back to the Commission.

Meeting adjourned at 11:05 p.m.

SUBMITTED BY:

Alice Malotte  
Recording Clerk

APPROVED BY:

Jeff Schwob, Secretary  
Planning Commission